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FILED

OCT 25 2010

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

RECEIVED

Attorneys for the United States of America

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

## OAKLAND DIVISION

NILEX CORPORATION, on behalf of ) No. C 09-3723-CW  
itself and the UNITED STATES, )

**Plaintiff,**

V.

DGI-MENARD INC.; SETH PEARLMAN; ROGER BLOOMFIELD; and RICHARD ALLEN HAMMERS.

## Defendants

**UNITED STATES' NOTICE OF  
ELECTION TO INTERVENE;  
~~PROPOSED~~ ORDER**

FILED UNDER SEAL

18       1. Pursuant to 31 U.S.C. §3730 (b)(4), the United States hereby notifies the Court of its  
19 decision regarding intervention in this False Claims Act *qui tam* action. The United States hereby  
20 elects to intervene in this action.

21       2. The parties are in the process of executing a settlement agreement in this case, but final  
22 signatures were not obtained by the October 15, 2010 intervention deadline.

23       3. A case management conference is scheduled for November 16, 2010. The United States  
24 anticipates that the settlement agreement will be finalized and signed in the near future, with  
25 Defendants' payment under the Settlement Agreement due ten calendar days after signature. After  
26 receiving payment of the settlement amount, the United States and the Relator will dismiss this  
27 action with prejudice. Accordingly, the United States anticipates filing a dismissal stipulation well  
28 in advance of November 16, 2010, and anticipates simultaneously requesting that the case

1 management conference be vacated.

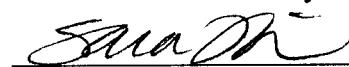
2       4. We request that the Court unseal (a) the Relator's Complaint, (b) this Notice of Election  
3 and accompanying [Proposed] Order Lifting Seal, and (c) all other filings in this action occurring  
4 on or after today's date. All other contents of the Court's file in this matter (including, but not  
5 limited to any applications filed by the United States for extensions of the sixty-day investigative  
6 period, any applications for partial lifting of the seal, and any orders previously entered in this  
7 matter), should remain under seal and not be made public or served upon the Defendants.

8 Date: October 15, 2010

Respectfully submitted,

9  
10 MELINDA HAAG  
United States Attorney

11 By:

12   
SARA WINSLOW  
13 Assistant United States Attorney  
14 Attorneys for the United States of America

**[PROPOSED] ORDER**

15 Upon consideration of the United States' Notice of Election to Intervene, the Court rules as  
16 follows. IT IS ORDERED that:

17       1. The seal shall be lifted as to: the Relator's Complaint; this Order and the accompanying  
18 United States' and California's Notice of Election to Intervene; and all subsequent filings in this  
19 action.

20       2. All other previously filed contents of the Court's file in this action shall remain under  
21 seal and not be made public or served upon the Defendants.

22 Dated: OCT 25 2010

23   
HONORABLE CLAUDIA WILKEN  
24 United States District Judge